

JS - 6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

GUMERSINDO HERRERA,

Plaintiff,

v.

CITY OF LA HABRA, a Public Entity;
D. Barnes, and , and DOES 1 through 10,
Inclusive, each fo whom is sued both
individually and in their official capacity
as police officers for the City of La
Habra,

Defendants.

NO. SA CV07-447 CJC (ANx)

[PROPOSED] JUDGMENT

This action came on regularly for jury trial on September 23, 2008, in Courtroom 9B of the United States District Court, Central District of California, Southern Division, the Honorable Cormac J. Carney, District Judge Presiding. The Plaintiff, GUMERSINDO HERRERA, was represented by Attorneys Antonio Rodriguez and Jorge Gonzalez. The Defendant, Officer D. BARNES, was represented by Kelly R. M. Irwin of Ferguson, Praet & Sherman.

A jury of 11 persons was regularly impaneled and sworn on September 23, 2008. Witnesses were sworn and testified. One juror was dismissed for cause on the first day of trial.

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1 After hearing the evidence and arguments of counsel, the jury was duly
 2 instructed by the Court, and the cause was submitted to the jury with directions to
 3 return a special verdict.

4 The jury deliberated and shortly thereafter returned into the Court with its
 5 unanimous verdict consisting of the issues submitted to the jury and the answers given
 6 thereto by the jury, which said in words and figures as follows, to-wit:

7
 8 **“TITLE OF COURT AND CAUSE”**

9 We, the jury in the above-entitled case, find the following verdict on the
 10 questions submitted to us:

11 **QUESTION NO.1:**

12 Has the plaintiff, Gumersindo Herrera, proved by a preponderance of the
 13 evidence that La Habra Police Detective Daniel Barnes violated Gumersindo Herrera’s
 14 constitutional rights on May 24, 2006, by using excessive force?

15 YES _____ NO X

16 If your answer to Question No. 1 above is “YES”, then you must proceed to
 17 answer Question No. 2. If your answer to the Question above is “NO”, then you must
 18 go to the end of this form and sign and date the form, then return it to the Court.

19 **QUESTION NO. 2:**

20 Was Defendant Detective Barnes’ use of unreasonable force a substantial factor
 21 in causing harm to plaintiff Gumersindo Herrera?

22 YES _____ NO _____

23 **QUESTION NO. 3:**

24 What is the amount of damages which you have determined will compensate
 25 plaintiff Gumersindo Herrera for the damages or injuries he suffered as a result of the
 26 violation of his rights?

27 SPECIAL DAMAGES _____

28 GENERAL DAMAGES _____

1 TOTAL _____

2 After answering Question No. 3, please proceed to answer Question No. 4.

3 **QUESTION NO. 4:**

4 Were the actions of defendant D. Barnes done deliberately, intentionally,
5 maliciously, and/or in reckless disregard of plaintiff Gumersindo Herrera's
6 constitutional rights?

7 YES _____ NO _____

8 Please sign and date this form, then return it to the Court.

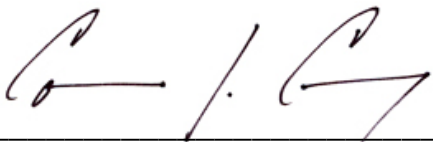
9 Dated: September 25, 2008

10
11 By: _____ /S/
12 FOREPERSON

13 By reason of the rulings of the Court, and the Special Verdict, Defendant,
14 Officer D. BARNES is entitled to judgment against Plaintiff, GUMERSINDO
15 HERRERA.

16 Now, therefore, it is **ORDERED, ADJUDGED AND DECREED** that
17 Plaintiff, GUMERSINDO HERRERA, have and recover nothing by reason of each
18 and all his claims as set forth in the Complaint against Defendant, Officer D.
19 BARNES, and that Defendant shall recover his costs in accordance with Federal Rules
20 of Civil Procedure and Local Rule 54.

21
22
23 DATED: October 14, 2008

24 

Honorable Cormac J. Carney
United States District Court Judge